

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

GILLETTE AIR CONDITIONING  
COMPANY

VS.

TIMOTHY D. SCHEUTZOW AND  
FIELD FUSION, INC.

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CIVIL ACTION NO. 5:10-CV-548

**PLAINTIFF'S RESPONSE TO DEFENDANT'S  
"ADDENDUM TO PER PENDING PETITION"**

NOW COMES Plaintiff, GILLETTE AIR CONDITIONING COMPANY and submits this, its Response to Defendant, Timothy D. Scheutzow's "*Addendum to Per Pending Petition*", and also re-urges its Request for Entry of Default against Defendant, Field Fusion, Inc. and, in support, shows the Court the following:

**A. INTRODUCTION**

1. Plaintiff is GILLETTE AIR CONDITIONING COMPANY ("GAC"); Defendant, TIMOTHY D. SCHEUTZOW ("SCHEUTZOW") filed an answer, *pro se* and Mr. Scheutzow attempted to submit an answer for FIELD FUSION, INC. ("FFI") without licensed counsel.

2. Plaintiff, GAC filed its Original Complaint against Defendants, TIMOTHY D. SCHEUTZOW and FIELD FUSION, INC. on June 29, 2010 (Docket No. 1). Defendants were served with Summons on July 1, 2010 (Docket No. 6). Defendants requested and were granted a 30 day extension of time to answer the suit (Docket No. 12). On August 24, 2010, Defendant, SCHEUTZOW filed Defendant, TIMOTHY D. SCHEUTZOW's and FIELD FUSION, INC.'s Answer to Claim and Counterclaim with the District Clerk.

3. On August 31, 2010, the Court referred this matter to Magistrate Judge Nancy Stein Nowak for pretrial proceedings including any requests for injunctive relief (Docket No. 14).

4. On September 1, 2010, United States Magistrate Judge Nancy Stein Nowak issued her Order that Defendant, FFI retain an attorney to file a notice of appearance by no later than September 22, 2010, or a default judgment may be entered against Defendant, FFI. (Docket No. 16).

5. On September 24, 2010, Defendant, SCHEUTZOW filed a letter with the Court indicating his grandmother passed away and requesting "mercy from the Court" for his late filing (Docket No. 20).

6. At the same approximate time on September 24, 2010, Mr. SCHEUTZOW filed the document entitled "*Addendum to Per Pending Petition*" (Docket No. 21).

7. In this *Addendum to Per Pending Petition*, Mr. SCHEUTZOW asserts essentially that FFI should not be involved as a party<sup>1</sup>; and also that because FFI should not be a party, there is no need for it to retain licensed counsel<sup>2</sup>.

8. Consequently the *Addendum to per Pending Petition* makes clear that Mr. SCHEUTZOW AND FFI do not intend to retain counsel to represent FFI in this case, and do not intend to comply with Magistrate Judge Nowak's Order of September 1, 2010.

9. Plaintiff therefore requests immediate entry of default judgment against Defendant, FFI, in accordance with said Order and the Plaintiff's Request for Entry of Default Judgment, filed September 23, and 2010 (Docket Number 19), Inc., which is hereby re-urged by the Plaintiff.

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<sup>1</sup> ".....no corporate entity by and between the parties was not involved nor has there ever been."

<sup>2</sup> "We therefore ask the court to establish a legal standing for Timothy Scheutzow (pro se) and therefore allow him to represent, defend, all matters before this honorable court."

10. For these reasons, Plaintiff requests entry of default in favor of GILLETTE AIR CONDITIONING COMPANY; requests that the Court strike Defendant, SCHEUTZOW's appearance as the representative of Defendant, FFI; and requests that the Court deny Defendants' *Addendum to Per Pending Petition*. Plaintiff additionally requests any and all additional relief to which it may show itself justly entitled.

Respectfully submitted,

**THE GARDNER LAW FIRM**  
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By: /s/Thomas J. Walthall, Jr.

**JAY K. FARWELL**  
State Bar No. 00784038  
**THOMAS J. WALTHALL, JR.**  
State Bar No. 20821600  
**ATTORNEYS FOR PLAINTIFF,**  
**GILLETTE AIR CONDITIONING**  
**COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, a true and correct copy of the foregoing has been forwarded to all parties on the 27th day of September, 2010, addressed as follows:

Timothy D. Scheutzow  
2260 Granger Road  
Medina, Ohio 44256-8682

Field Fusion, Inc.  
Timothy D. Scheutzow  
2260 Granger Road  
Medina, Ohio 44256-8682

/s/Thomas J. Walthall Jr.